

REMARKS

Claims 1–16 have been canceled without prejudice. Claims 17–20 have been amended. New claims 21–29 have been added. Claims 17–29 are currently pending. Reexamination and allowance of the pending claims is respectfully requested.

The Examiner's courtesy in granting the undersigned a personal interview on February 9, 2006 is gratefully appreciated. During this interview, the teachings of USP6,251,104 to Kesten et al. ("Kesten") were discussed with respect to the proposed amendments to claim 17.

Independent claims 1 and 17 stand rejected under 35 U.S.C. 102(b) as been anticipated by Kesten. This rejection is respectfully traversed.

Claims 1–16 have been canceled without prejudice. Claim 17 has been amended to recite a method of placing the distal end of an ultrasound catheter at a desired location inside a vessel through the use of a guidewire. In contrast, Kesten is silent about the use of a guidewire, and Kesten's disclosure is limited to the use of its system inside the chamber of a heart.

In addition, Applicant respectfully submits that it would not be obvious or proper to modify the teachings in Kesten for use with a guidewire and in a vessel. First, Kesten is completely silent about the provision or use of a guidewire with his system, and is also silent about the use of his system in a vessel. Thus, there is no teaching or suggestion in Kesten to provide a guidewire and to use his system in a vessel. Second, Kesten is directed to the ablation of tissue in a heart chamber, and there is no need for the use of a guidewire when ablating tissue inside a heart chamber. Thus, there would be no reason or incentive for a person skilled in the art to provide a guidewire to Kesten's system.

In fact, a recent Federal Circuit case decided less than two months ago, Perricone v. Medicis Pharmaceutical Corp., 77 USPQ2d 1321 (Fed Cir. 2005) supports the patentability of claim 17 over Kesten. In Perricone, the Federal Circuit ruled that claims for a method of treating sunburned skin are not inherently anticipated by a prior art directed to cosmetic compositions for topical application, even though such compositions include ingredients in concentration claimed by the claims at issue. According to the Federal Circuit, even though the claims at issue recite a new use (treatment of sunburned skin) for a composition disclosed in the prior art, the prior art only taught the use of the composition for preventing sunburn. The fact that the prior art did not teach the use of the composition to treat skin sunburn was sufficient for the Federal Circuit to conclude that the prior art did not inherently anticipate the claimed method that recites using the

composition to treat skin sunburn. See Perricone, 77 USPQ2d at 1328.

The facts in Perricone are similar to the facts in the present application. Here, Kesten fails to teach the use of his system in a vessel. In fact, amended claim 17 further recites a guidewire for use in the claimed system in a vessel, which further distinguishes Kesten. As a result, claim 17, and claims 18–27 depending therefrom, are submitted to be allowable over Kesten.

In light of the above reasons, all pending claims are submitted to be in condition for allowance. The Examiner is encouraged to telephone the undersigned if there are any remaining amendments or informalities that would place this application in condition for allowance.

Respectfully Submitted,



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By:


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